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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/175,174 12/28/93 DAVIES

M 295406403US1

LEWIS, A EXAMINER

F3M1/0710

DARBY & DARBY  
805 THIRD AVENUE  
NEW YORK, NY 10022

ART UNIT PAPER NUMBER

3307

33

DATE MAILED: 07/10/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 4/17/95 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.             | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/>   |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-26 are pending in the application.  
Of the above, claims 22-26 are withdrawn from consideration.
2. ☐ Claims have been cancelled.
3. ☐ Claims are allowed.
4. ☒ Claims 1-21 are rejected.
5. ☐ Claims are objected to.
6. ☐ Claims are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

a.LL Prosecution of the instant application has proceeded with claims 22-26 having been ~~presumed~~ withdrawn from consideration. Such withdrawal is based upon a restriction requirement made in the office action dated 04/02/92 in parent application 07/663,145. However, since claims 22-26 have not been cancelled, they remain in the instant application. Applicant is requested to state his intentions with regarding claims 22-26 in response to this office action.

Claims 1-21 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In each of independent claims 1,8,11 and 16 there continues to be references back to elements of the medicament pack which render the claims indefinite as to whether the combination of an inhalation device and medicament pack are being claimed or whether an inhalation device alone is being claimed.

The following proposed changes to each of claims 1,8,11 and 16 would be acceptable language and would result in allowable claims:

In claim 1, line 12, "...the..." should read --such a--; in line 15, the first recitation of "...the..." should be deleted; in line 15, the second recitation of "...the..." should read --such an--.

In claim 8, line 13, "...the..." should read --such a--; in

line 14, "...the..." should read --such a--; in line 20, "...the..." should be deleted; in line 20, "...said..." should read --such an--.

In claim 11, line 13, "...the..." should read --such a--; in line 14, "...the..." should read --such a--; in line 20, "...the..." should be deleted; in line 20, "...said..." should read --such an--.

In claim 16, lines 14-33 should read:

--for receiving a container of a medicament pack being used with said inhalation device;

a peeling means positioned to engage a base sheet and a lid sheet of a container which has been received in said opening station for peeling apart such a base sheet and lid sheet to open such a container, said peeling means including driving means for pulling apart a lid sheet and a base sheet of a container that has been received at said opening station;

an outlet positioned to be in communication with an opened container through which a user can inhale medicament in powder form from such an opened container;

an indexing means for indexing in communication with said outlet containers of a medicament pack in use with said inhalation device, said indexing means including,

means for guiding such a lid sheet and base sheet along separate paths at said opening station, said paths reuniting downstream of said opening station, said driving means being

located after the point where said paths reunite and being operable to drive both a lid sheet and a base sheet.--

Additionally, dependent claims 2-6,14,18 should also be amended to make clear applicant's stated intention to claim the inhalation device alone.

In claim 2, "...said two members..." lacks antecedent basis.

In claim 3, "...the sheets..." lacks antecedent basis; in line 4, "...indexing means..." and the language which follows does not appear to further define the "...indexing means..." already recited in claim 1.

In claim 4, each recitation of "...the lid sheet..." and "...the base sheet..." lacks antecedent basis; also "...the sheets..." lacks antecedent basis.

In claim 5, line 3, "...the lid sheet..." lacks antecedent basis.

In claim 6, line 3, "...the medicament pack..." lacks antecedent basis.

In claim 14, line 3, "...the lid sheet..." lacks antecedent basis.

In claim 18, line 2, "...the elongate medicament pack..." lacks antecedent basis.

Claims 1,8,11 and 16 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112.

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Claims 2-6,14,18 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112 and to include all of the limitations of the base claim and any intervening claims.

Applicant's arguments with respect to claims 1-21 have been considered but are deemed to be moot in view of the new grounds of rejection.

Any inquiry concerning this communication should be directed to Aaron J. Lewis at telephone number (703) 308-0716.

Aaron J. Lewis  
July 9, 1995

  
AARON J. LEWIS  
EXAMINER  
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